

File: 50430030
STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

cc: Lynn
Mary Ann
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RAYMOND HINTZE
CHIEF DEPUTY

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KIRK TORGENSEN
CHIEF DEPUTY

February 20, 2007

Mr. Ed Rogers
Wright/Garff Resources, LLC,
1675 Beck Street
Salt Lake City, UT 84116

Re: *Wright/Garff Resources, LLC, Procedures for Informal Conference to be held March 1, 2007*

Dear Mr. Rogers:

Wright/Garff Resources, LLC (Wright/Garff) requested an informal conference challenging the Division of Oil, Gas & Mining's (Division) decision to not process Wright/Garff's Notice of Intention to commence small mining operations at Browns Canyon Quarry. An informal conference will be held March 1, 2007 at 9:00 a.m. I have attached a copy of the rules governing the informal conference as well as several statutory citations.

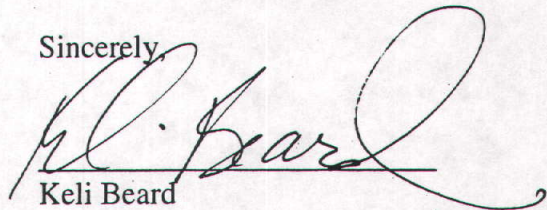
Under the Utah Mined Land Reclamation Act, to operate a small mine, the operator must first submit a Notice of Intention (NOI) to the Division. Utah Code Ann. § 40-8-13(1)(a) (West 2004); *see* Utah Admin. Code R647-3-101.1. The Division then approves or disapproves the form and amount of surety. Utah Code Ann. § 40-8-13(5); Utah Admin. Code R647-3-101.1. To challenge the Division's determination, the applicant may commence informal agency action by filing a request for agency action. Utah Admin. Code R647-5-101.2; *see* Utah Admin. Code R647-5-104 (commencement of adjudicative proceedings).

Once agency action is initiated, the Division gives notice to all persons having a direct interest in the requested agency action. Utah Admin. Code R647-5-106.2. In this case, the Division published notice in the Summit County Bee on Friday, February 16, 2007, and also sent a copy of the notice to Star Stone Quarry. The Division Director, John Baza, will be the hearing officer at the informal Conference. Wright/Garff will have the opportunity to testify, present evidence and comment on the issues. Utah Admin. Code R647-5-106.5. Please refer to Utah Administrative Code R647-5 for a more thorough examination of the procedural rules governing the informal conference.

Within a reasonable time after the close of the hearing, the hearing officer will issue a written order setting forth the decision, the reasons for the decision, and the time for filing an appeal. *Id.* R647-5-106.11. Any aggrieved party that participated in the hearing may file a written appeal to the Board of Oil, Gas & Mining (Board) within ten (10) days of the issuance of the order. *Id.* R647-5-106.17. Hearings before the Board are formal adjudicative proceedings, governed by the Utah Administrative Procedures Act, Utah Code Ann. § 63-46b et seq., and the Board's Procedural Rules, Utah Administrative Code R641 et seq. Appeals of the Board's decisions are taken directly to the Supreme Court. Utah Code Ann. § 78-2-2(3)(e)(iv); Utah Code Ann. § 63-46b-16(1).

The Division does not expect Lon Thomas to appear at the informal conference due to scheduling conflicts. However, the Division intends to ask the hearing officer to leave the conference open for a reasonable time to allow Mr. Thomas to respond in writing or in person before issuing a decision. Please feel free to contact me if you have any questions or concerns. You may reach me by phone at 801-538-7486 or by e-mail at kelibeard@utah.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "K. Beard", with a long, sweeping flourish extending to the right.

Keli Beard
Assistant Attorney General

cc. Susan White
Lon Thomas, Star Stone Quarry